

HOUSE BILL 3304
By Niceley

AN ACT to create and establish the elective office of solicitor general and to amend Tennessee Code Annotated, Title 2, Chapter 10, Section 8-6-103, Title 38, Chapter 5, Title 38, Chapter 6, as well as other related provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is created within the executive branch of government the office of solicitor general of Tennessee. The solicitor general shall be chosen by the voters of the entire state at the November general election in 2006. Candidates for the office of solicitor general may be qualified as political party candidates or independent candidates. The solicitor general's term of office shall commence on the fifteenth day of January immediately following such November general election and shall continue for a term of four (4) years. A person may serve not more than two (2) successive four (4) year terms as solicitor general.

The solicitor general shall be learned in the law and shall be licensed to practice law in all the courts of the state of Tennessee and shall, at the time of assuming the duties of office, be at least thirty-five (35) years of age. The solicitor general shall devote full time to the duties of office and may not engage in the private practice of law.

If any vacancy occurs in the office of solicitor general, the governor shall appoint a qualified successor to the office, who shall serve until the next succeeding November general election, occurring at least ninety (90) days after such vacancy arises, when a successor shall be elected and assume the duties of office upon being certified as having been elected. If such successor is elected at a November general election at which a solicitor general would not normally be elected, then he or she shall serve only for the remainder of the unexpired term, but

if elected at a November general election at which a solicitor general would otherwise have been elected, then he or she shall serve a full four (4) year term.

SECTION 2.

(a) The solicitor general shall be executive head of the legal department of the state. The legal department shall consist of the solicitor general and his or her assistants and employees. The solicitor general shall maintain offices in Nashville in space which shall be provided by the department of finance and administration.

(b) The attorney general and reporter is relieved of all statutory duties, rights, privileges, responsibilities and restrictions imposed by Tennessee Code Annotated, Title 8, Chapter 6, except for §8-6-109(b)(7), and §§8-6-201 through 8-6-207, and is relieved of such other duties, rights, privileges, responsibilities and restrictions as may be imposed upon the attorney general and reporter by other provisions of law.

(c) The attorney general and reporter shall continue to be responsible for reporting the opinions of the Supreme Court of Tennessee as provided by §8-6-109(b)(7) and §§8-6-201 through 8-6-207.

(d) The solicitor general of the state of Tennessee shall assume all duties, rights, privileges, responsibilities and restrictions of which the attorney general and reporter is relieved pursuant to subsection (b).

SECTION 3. Tennessee Code Annotated, Section 8-6-103, is amended by adding the following new paragraph:

All assistants assigned to or employed in the office of the Attorney-General and Reporter on July 1, 2006 shall be transferred to the office of the solicitor general and be under jurisdiction, supervision and administrative control of the solicitor general, except those assistants who are occupied in the performance of the duties set forth in §8-6-109(b)(7), and §§8-6-201 through 8-6-207. The Justices of the Supreme Court shall

designate the number of assistants necessary to perform these functions before July 1, 2006.

SECTION 4. Tennessee Code Annotated is amended by deleting the words "attorney general" or "attorney general and reporter" wherever the same shall appear, with the exceptions noted herein, and substituting in lieu thereof the words "solicitor general".

The Tennessee Code Commission is hereby directed to replace references to the attorney general or attorney general and reporter only in the regular course of updating the Tennessee Code in regular supplemental volumes and the Commission shall not be required to formulate supplements which merely insert the words "solicitor general" it being the intent of this general assembly hereby expressed that wherever the words "Attorney General or Attorney General and Reporter" appear with the exceptions noted, they shall be construed to refer to the "solicitor general of the state after the effective date of this act.

SECTION 5. Tennessee Code Annotated, Section 38-6-101(a)(1), is amended by deleting the words "which shall be a separate department of state government" and by substituting instead the words "which shall be under the jurisdiction, supervision and administrative control of the solicitor general".

SECTION 6. Tennessee Code Annotated, Section 38-6-101(b)(3), is amended by deleting the language "shall be appointed to a fixed term of office by the governor from a list of three (3) nominees submitted to the governor" and by substituting instead the language "shall be appointed by the solicitor general from a list of three (3) nominees submitted to the solicitor general".

SECTION 7. Tennessee Code Annotated, Section 38-6-101(b)(3), is amended by deleting the word "governor" and by substituting instead the words "solicitor general".

SECTION 8. Tennessee Code Annotated, Section 38-6-101(b), is amended by deleting subdivision (4) and by substituting instead the following:

The director shall serve at the pleasure of the solicitor general.

SECTION 9. Notwithstanding any provision of § 8-7-103 to the contrary, the solicitor general shall have exclusive jurisdiction to prosecute all violations of the state criminal statutes and perform all prosecutorial functions attendant thereto for criminal acts committed by state employees, including but not limited to members of the General Assembly acting in an official capacity.

SECTION 10. Tennessee Code Annotated, Section 2-10-203(a), is amended by deleting the first sentence of the subsection and by substituting instead the following:

There is hereby created the Tennessee registry of election finance which shall be under the jurisdiction, supervision and administrative control of the solicitor general.

SECTION 11. Tennessee Code Annotated, Section 2-10-203(b)(1), is amended by deleting the second sentence of the subdivision and by substituting instead the following:

The authority of the registry is not affected by subsection (b) and the secretary of state shall have no administrative or supervisory control over the registry.

SECTION 12. Tennessee Code Annotated, Section 2-10-206(a)(6), is amended by deleting the subdivision in its entirety and by substituting instead the following:

Provide an annual report to the governor and the general assembly, and a quarterly report to the solicitor general, concerning the administration and enforcement of the disclosure law;

SECTION 13. Tennessee Code Annotated, Section 2-10-207(8), is amended by deleting the subdivision in its entirety and by substituting instead the following:

If the results of its investigation indicate an intentional or fraudulent violation has occurred, then the registry shall refer the matter to the solicitor general for criminal prosecution.

SECTION 14. The solicitor general shall receive the same salary as an associate justice of the supreme court, payable in equal monthly installments out of the treasury of the state by warrant of the commissioner of finance and administration upon the treasurer. The solicitor general shall employ, and within budgetary limitations, fix the salaries of his or her assistants and other employees. The solicitor general and his or her assistants and employees shall be reimbursed for official travel expenses in accordance with the official executive policies governing travel at state expense.

SECTION 15. The person holding the office of Attorney General and Reporter on July 1, 2006 shall assume the duties of solicitor general as set forth in this act until January 15, 2007. The first regularly elected solicitor general shall be elected under the terms of this act at the November general election in 2006 and shall take office on January 15, 2007.

SECTION 16. The provisions of this act are hereby declared to be severable, and if any of its sections, provisions, clauses, or parts be held unconstitutional or void, then the remainder of this act shall continue in full force and effect, it being the legislative intent now hereby declared, that this act would have been adopted even if such unconstitutional or void matter had not been included therein.

SECTION 17. This act shall take effect July 1, 2006, the public welfare requiring it.